

WASHINGTON
NEW YORK
LOS ANGELES

MORGAN, LEWIS & BOCKIUS

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ORIGINAL
(Red)

MIAMI
HARRISBURG
LONDON

DENIS V. BRENNAN
DIAL DIRECT (215) 963-5407

November 6, 1984

Kermit Rader, Esquire
Office of Regional Counsel (3RC20)
U.S. Environmental Protection Agency
6th & Walnut Streets
Philadelphia, PA 19106

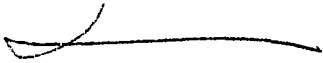
RE: Delaware Sand & Gravel Site

Dear Kermit:

I received and thank you for your letter concerning recipients of 104 inquiries from the EPA. Would you be kind enough to send me the responses to those inquiries and would you also be kind enough to provide me with the documentary confirmation as to when that site was opened and closed for the receipt of industrial waste? For example, are there DRNEC records relevant to the site?

In that regard, I was advised by Hercules that in September of 1969, Delaware Sand & Gravel discontinued receiving liquid chemical wastes. Apparently your information is to the contrary.

Very truly yours,


Denis V. Brennan

/kmt

cc: Joseph C. Kelly, Esquire
Melford F. Tietze, Esquire

Exhibit A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
6TH AND WALNUT STREETS
PHILADELPHIA, PENNSYLVANIA 19106

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In Reply Refer to (3RC20)

Denis V. Brennan
Morgan, Lewis and Bockius
2000 One Logan Square
Philadelphia, Pennsylvania 19103

Re: Delaware Sand and Gravel Site

Dear Denis:

I am writing to seek clarification of your request of November 6, 1984 for the responses to the Agency's letters of inquiry relating to the Delaware Sand and Gravel Superfund Site. As I have previously mentioned to you, the responses, taken as a whole, are quite voluminous. For the Agency to copy all of these documents would be extremely time-consuming and expensive task. In addition, I suspect that the vast majority of this work would be of little or no benefit to you. Typically, the responses themselves are not lengthy. In a relatively small number of instances, attached to the response were voluminous documents, such as purchase orders, receipts and invoices, which support the statements made in the response itself. In addition, we are in possession of lengthy documents from DRNEC relating to the site.

I suspect that many of these documents would not be of interest to you. I believe unnecessary work for both of us could be eliminated if either, your request were limited in some way, perhaps to the responses themselves, or someone from your office examined the documents and identified those for which copies are specifically desired.

With regard to your last point, documents which we received from Hercules and others, including the Delaware Sand and Gravel Company, do indicate that the facility ceased accepting liquid wastes late in 1969. The facility continued to receive other forms of industrial waste until it was closed in 1976. It should be noted in this regard however, that, if the site in fact accepted liquid waste for less than two years, it is difficult to account for the large numbers of drums found at the site during the removal action and anticipated to still be beneath the surface.

Sincerely,

Kermit Rader

Kermit Rader
Assistant Regional Counsel

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DENIS V. BRENNAN
DIAL DIRECT (215) 963-5407

February 28, 1984

3ed Callen, Esquire
Office of Regional Counsel
U.S. Environmental Protection Agency
6th and Walnut Streets
Philadelphia, Pennsylvania 19106

Re: ICI Americas Inc.

Dear Mr. Callen:

Mr. Voltaggio's letter received on January 17, 1984 and addressed to ICI Americas Inc. has been referred to me for response.

Mr. Voltaggio, in his letter, advised that the response should be made to you. Pursuant to my request, you were kind enough to grant a reasonable extension of time to respond to that letter beyond the time set forth therein and I thank you for that extension. I promised this response on or about this time and do so, but some additional investigation may still be undertaken.

At the outset, you should know that ICI does not believe your request is proper either under the authority of Section 104(e) of CERCLA or Section 3007 of RCRA, particularly in view of the fact that this matter is in litigation.

With respect to your request for documents, as you know, ICI previously provided a substantial number of documents in this matter. ICI did not provide, however, the recipes for ICI's products or its production records with respect to which ICI claims a privilege. Nevertheless, ICI will consider a request to review these records if the proper protective agreement can be reached.

MORGAN, LEWIS & BOCKIUS

ORIGINAL
(Red)

Jed Callen, Esquire
February 28, 1984
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With respect to your specific questions, I have been advised by ICI that, other than as may have been set forth in the documents previously provided and/or made available to or filed with the EPA, it does not have any analysis which would show the chemical composition of the "milky colored, sandy process waste" (press cake) that was generated during the period 1969 to 1971. In regard to the flammable press cake referred to in the Venarde affidavit, of which you have a copy, a very small percentage of that press cake was gone at the time in question. However, there is no known basis for such material being flammable.

Except as may have been contained in the records previously provided, and/or made available to or filed with the EPA, ICI does not have the dates and quantities of disposal of this or other press cake at Tybouts.

In regard to question #3, ICI, other than as may have been contained in the records previously provided and/or made available to or filed with the EPA, does not have the chemical composition, the quantities and the dates of disposal of any wastes that may have been deposited at Tybouts.

With respect to questions #4 and #5, ICI does not have any records and cannot answer those questions.

Although ICI is understandably anxious to get this matter behind it because it has spent substantial amounts of time and money responding to several requests for information, it does want to cooperate with you in this matter. At the same time, there have been a number of entities referred to in the record whose wastes were allegedly deposited at Tybouts and who, as far as ICI knows, have not been called upon to furnish information about such waste.

If for any reason you change your view that ICI should not be joined in this action, please give ICI the opportunity to discuss this matter with you.

If you have any questions or desire any information or clarification, please advise.

Yours very truly,

DVB:awc

DENIS V. BRENNAN